

RESOLUTION NO. 1688

A RESOLUTION PROVIDING FOR THE AMENDMENT OF CHAPTERS 1, 2, 3, 5, 6, 7, 8, AND 9 OF THE PERSONNEL POLICIES AND PROCEDURES, 2004 EDITION OF THE CITY OF GARDNER, KANSAS.

WHEREAS, the City of Gardner now deems it advisable to amend the uniform personnel policies and procedures for employees of the City of Gardner

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION ONE: Section 1-1003 of Chapter 1 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

1-1003 LONGEVITY BONUS.

All full-time and regular part-time employees of the City shall receive an annual longevity bonus of either one-dollar (\$1.00) per month of continuous service, counting the month of hire through the end of the current calendar year, or a minimum of fifty-dollars, whichever is greater. Longevity bonuses will be distributed by December 31st of each year and will be issued only to those employees currently on payroll at the time of issuance. Longevity bonuses are dependent on budgetary resources and this provision does not constitute a guarantee that bonuses will be issued

SECTION TWO: Section 2-202 of Chapter 2 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

2-202 APPLICATIONS.

- 202.1 Individuals applying for a non-exempt full-time position, a regular part-time position, part-time position, or temporary position must complete the appropriate employment application. Resumes may be considered as application only for full-time, exempt positions. Applications or additional information may be requested for full-time, exempt positions during the selection process.
- 202.2 Current employees applying for a vacant position that has been posted or advertised outside the organization must complete the application form appropriate to the vacant position.
- 202.3 Applications will be accepted only when a vacancy exists and the application must state the specific position being applied for. Applications for "any" or "any open" position will not be accepted. Applications will be kept in an active file for a period of not less than sixty (60) days.

SECTION THREE: Section 2-301 of Chapter 2 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

2-301 GENERAL PROCEDURES.

Individuals will be selected who most closely meet all the position requirements and the needs of the City. All offers of employment are conditional upon the successful completion of a physical examination, drug screen, and a background report including criminal history, verifications of employment and education, driving record, and if applicable, a credit report.

SECTION FOUR: Section 2-302 of Chapter 2 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

2-302 MEDICAL EXAM.

- 302.1 For all full-time and regular part-time positions, the selected individual must take a post-offer job-related medical and, in the case of Public Safety Officers, a post-offer psychological exam, based on requirements of the job; to determine whether the individual is physically, and in the case of Public Safety Officers, psychologically, able to perform the essential job functions of the position with or without reasonable accommodation.
- 302.2 For part-time and seasonal/temporary positions, the selected individual may be required to take a post-offer job-related medical exam, based on requirements of the job, to determine whether the individual is physically able to perform the essential job functions of the position with or without reasonable accommodation.
- 302.3 A full-time or regular part-time employee who is being promoted, transferred, or demoted into a full-time position with significantly different job requirements (if job related and consistent with business necessity) may be requested to take a medical and, in the case of Public Safety Officers, a psychological exam.
- 302.4 All costs associated with medical and psychological exams are the responsibility of the City. All results of these exams are the exclusive property of the City and are considered confidential.

SECTION FIVE: Section 2-305 of Chapter 2 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby added to read as follows:

2-305 BACKGROUND REPORT

Job applicants must sign an authorization form before the City can obtain a background report and/or an investigative report. The background report will include, but not be limited to, criminal history, verifications of employment and education, and driving records. A credit report detailing personal financial history will only be obtained for permissible purposes in consideration of jobs meeting specific criteria. In the event that information from the report is utilized in whole or in part in making an adverse decision with regard to potential employment, before making the adverse decision, the City of Gardner will provide the applicant with a copy of the consumer report and a description in writing of their rights under the federal Fair Credit Reporting Act.

SECTION SIX: Section 3-108 of Chapter 3 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

3-108 USE OF PERSONAL VEHICLE.

108.1 Mileage Reimbursement for Use of Personal Automobile:

Individuals shall be compensated for using their personal vehicle for authorized City business. Persons claiming a reimbursement should document the necessary information on the appropriate form to their department director. Individuals will be reimbursed at the prevailing per-mile rate of the federal government.

108.2 Automobile Allowances:

Automobile and vehicle allowances not exceeding a per month maximum as established by the City Council may be authorized for designated employees on a need basis by the City Administrator. Any request for a car allowance exceeding the per month maximum must be submitted to the City Council for consideration. Those employees eligible for car allowances will have the rate established based on the following criteria:

- a) Job type and responsibility;
- b) Amount of estimated work-related mileage;
- c) Estimated wear and tear on vehicle; and
- d) Required work-related vehicle specifications.

108.3 Proof of Insurance:

Individuals who use their personal vehicle for authorized City business or who receive an automobile or vehicle allowance may be required to provide proof of insurance coverage equal to at least the minimum levels as required by Kansas law.

SECTION SEVEN: Section 3-109.7 of Chapter 3 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

- 109.7 Employees are expected to use city vehicles and equipment in a safe and responsible manner. If an employee intentionally or through gross negligence causes unjustifiable damage to a city vehicle or equipment, they may be subject to disciplinary action up to and including termination. Employees are expected to keep their work vehicle and equipment in a neat and tidy manner. All vehicles belonging to the City are subject to inspection at any time without notice and no employee using or a passenger in a city vehicle has any expectation of privacy while in that vehicle.

SECTION EIGHT: Section 3-112.5 of Chapter 3 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby added to read as follows:

- 112.5 All property belonging to the City is subject to inspection at any time without notice and employees have no expectation of privacy with regard to any city property. Property includes, but is not limited to, vehicles, desks, containers, files, and storage lockers.

SECTION NINE: Section 3-116 of Chapter 3 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby added to read as follows:

3-116 VOICEMAIL.

All telephone communication and fax systems and all communications and information sent through, received or stored in these systems are the property of the City of Gardner and are provided to be used for job-related purposes. The use of voicemail or fax to communicate obscene, harassing, or otherwise offensive language or communications is prohibited. The City retains the right to monitor all of its communications systems at its discretion, including listening to voicemail messages stored in the systems. By using these systems, employees consent to such monitoring of these systems by the City.

SECTION TEN: Section 3-117 of Chapter 3 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

3-117 GROOMING AND DRESS.

Employees' grooming and dress should be appropriate to the work situation. It is important to maintain a neat, professional, and clean personal appearance at all times. This includes attention to personal hygiene and clothing. Supervisors and/or department policies will address

the dress code and any uniform requirements for specific positions. The City of Gardner reserves the right to determine if an employee's attire is not in keeping with this policy and may ask the employee to return home to change to proper attire. This time may be charged to vacation leave, or if the employee has none, leave without pay.

SECTION ELEVEN: Section 3-118 of Chapter 3 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

3-118 WEAPONS.

Unauthorized possession of firearms or other weapons on the job is strictly prohibited.

SECTION TWELVE: Section 3-119 of Chapter 3 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

3-119 VIOLENCE IN THE WORKPLACE.

The City of Gardner seeks to provide a work environment that is free from violence or threats of violence. Threats of violence and acts of violence by or against any employee of the City of Gardner will not be tolerated. Violence or the threat of violence is a violation of city policy and employees who violate this policy will be subject to disciplinary action up to and including termination of employment and possible criminal charges. Threats of violence and acts of violence compromise the safety of employees and can affect morale, productivity, absenteeism, turnover, litigation costs, and worker's compensation costs. Ignoring threats of violence can result in physical harm to employees, customers, and the general public. In the case of true emergency employees are encouraged to call 911 for emergency assistance.

- 119.1 A threat is the expression of an intent to cause physical or mental harm and can include any expression which constitutes a threat regardless of whether the party communicating the threat has the present ability to carry it out or whether the expression is contingent on something else happening, or whether it may occur in the future. The following may be considered to be violence or threats of violence but it should be understood that this is not a complete list and other conduct may also constitute violence or the threat of violence:
 - a) Physical harm or beatings including striking, pushing, and other aggressive physical acts.
 - b) Verbalized threats, abusive or offensive language, intimidation, etc.
 - c) Property damage due to violence.
 - d) Property theft due to employer-directed violence.
 - e) Rape, sexual assault or sexual abuse.
 - f) Verbal abuse.
 - g) Harassment, intimidation, and other disruptive behavior.
- 119.2 Individual who commit such acts may be removed from the premises and may be subject to disciplinary action, criminal penalties, or both.
- 119.3 Employees are required report all violent incidents or threats of violent incidents to their supervisor regardless of whether physical injury occurs. If, because of special circumstance, an employee feels it is necessary, the employee may bypass their supervisor and take the complaint up through the department chain of command or directly to the Human Resources Director or City Administrator.

Threats must be reported and documented when the behavior has been observed on the job or the threat has the potential to be carried out on city property or in the course of conducting city business. In case of true emergency employees are encouraged to call 911 for emergency assistance.

- 119.4 Employees should verbally report any behavior they have witnessed which they regard as threatening or violent to their supervisor. These threats may be made outside of work but have potential to be carried out in the workplace and include threats made by family members, spouses, ex-spouses, boyfriends, girlfriends, employees, and members of the public.
- 119.5 All reports of threats will be taken seriously. In the case of true emergency employees are encouraged to call 911 for emergency assistance. The City of Gardner will not retaliate against employees who report real, perceived, or implied violent behavior or threats in good faith. Employees who intentionally make false reports or accusations will be subject to disciplinary action.

EXCEPTION: Due to the nature of their jobs, this policy is not meant to address violence for public safety officer positions.

SECTION THIRTEEN: Section 3-120 of Chapter 3 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby added to read as follows:

3-120 WORKPLACE SEARCHES.

The City of Gardner reserves the right to search any employee's office, desk, files, locker, or any other area or property on City premises. All offices, desks, files, lockers, and equipment are the property of the City and are issued for the use of employees during and for their employment with the City. Inspections may be conducted at any time and employees shall have no expectation of privacy in the possession or use of such property. The City further reserves the right to inspect any packages, parcels, purses, handbags, briefcases, lunchboxes, or any other possessions or articles carried to and from the City of Gardner property as permitted by law, in an attempt to safeguard the property of the City of Gardner and its employees and to help prevent the possession, sale, and use of illegal drugs or any other illegal or improper activity on City premises.

SECTION FOURTEEN: Article 3 of Chapter 3 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

ARTICLE 3. SUBSTANCE ABUSE POLICY

3-301 OBJECTIVES.

The City of Gardner has the public trust to provide a variety of services to the community in the most efficient and effective manner possible. The City of Gardner has an obligation to ensure public safety and to provide a safe working environment for all employees. In order to achieve those goals, it is imperative that the City ensure that all employees are able to perform their job duties safely and effectively. One requirement for employment is that an employee be free from drug and alcohol dependence, illegal drug use, or drug/alcohol abuse.

There is sufficient evidence to conclude that substance abuse, including the use of illegal drugs/alcohol, drug/alcohol dependence, and drug/alcohol abuse seriously impairs an employee's performance and general physical and mental health. Therefore, the City of Gardner has adopted this written policy to ensure an employee's fitness for duty as a condition of employment; to ensure drug tests are ordered as the result of reasonable suspicion by supervisory personnel and based on observed behavior or work performance; to inform employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance or alcohol is prohibited in the workplace; to inform employees that testing

may be a requirement of continued employment; and to inform applicants that testing is a requirement of employment. The City's policy also conforms to the federal requirements established for alcohol and drug testing of all safety sensitive employees.

3-302 DEFINITIONS.

- 302.1 ALCOHOL – The major intoxicating ingredient in whiskey, wine, beer, and other fermented or distilled liquors.
- 302.2 ALCOHOL CONCENTRATION (OR CONTENT) - The alcohol in a volume of breath as indicated by an evidential breath test.
- 302.3 BREATH ALCOHOL TECHNICIAN (BAT) - A person trained to proficiency in the operation of the EBT they are using as determined by applicable state and federal regulations.
- 302.4 CONTROLLED SUBSTANCE – Drugs for which the possession, sales, use or distribution is unlawful. These include but are not limited to amphetamines, tranquilizers, barbiturates, cocaine and all of its derivatives, marijuana and hallucinogens. For the purpose of this policy, illegal drugs also include drugs that are not legally obtainable and drugs that are legally obtainable but have been obtained illegally.
- 302.5 EMPLOYEE ASSISTANCE PROGRAM (EAP) - A counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems and monitors the progress of employees while in treatment.
- 302.6 EVIDENTIAL BREATH TESTING DEVICE (EBT) - A device approved by the National Highway Transportation and used to measure breath alcohol concentration,
- 302.7 MEDICAL REVIEW OFFICER (MRO) - The individual who is responsible for receiving laboratory results generated from the City's drug testing program under this Policy and who is a licensed physician in either medicine or osteopathy with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information.
- 302.8 POSSESSION – Having controlled substances which are not obtained either directly from a doctor or pharmacist using a valid prescription or having controlled substances, the possession or use of which is unlawful.
- 302.9 REFUSE TO SUBMIT - (To an alcohol or drug test) Means that an employee (1) failed to provide adequate breath for testing without a valid medical explanation; (2) failed to provide adequate urine for drug testing without a valid medical explanation; or (3) engages in conduct that clearly obstructs the testing process.
- 302.10 SAFETY SENSITIVE EMPLOYEE - Any employee who operates a commercial motor vehicle and holds a commercial driver's license. Such an employee includes but is not limited to full time, regularly employed drivers and casual intermittent or occasional drivers.
- 302.11 SAFETY SENSITIVE FUNCTION - Any of the following on-duty functions which involve operation of a commercial motor vehicle:
 - a) All time waiting to be dispatched, unless the employee has been relieved from duty by the City;

- b) All time inspecting, servicing, or conditioning any commercial motor vehicle;
- c) All time which is spent at the driving controls of a commercial motor vehicle in operation;
- d) All time, other than driving time spent, in or upon any commercial motor vehicle;
- e) All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
- f) All time spent performing the employee requirements associated with an accident which includes the following:
 - 1. Stopping immediately;
 - 2. Taking all necessary precaution to prevent further accident at the scene;
 - 3. Rendering all reasonable assistance to injured persons;
 - 4. Giving any person demanding the same, their name, address, the name and address of the City, the state tag and registration number of the vehicle involved; and if requested, exhibiting their chauffeur's or operator's license;
 - 5. Locating and notifying the custodian of an unattended vehicle which is stricken in the accident; and
 - 6. Reporting all details of the accident as soon as practicable after its occurrence to the employee's supervisor.
- g) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

NOTE: An employee is considered to be performing a safety-sensitive function during any period in which they are actually performing, ready to perform, or immediately available to perform any safety sensitive functions.

302.12 SUBSTANCE ABUSE PROFESSIONAL (SAP) - A licensed physician or certified psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug disorders.

3-303 GENERAL RULES.

- 303.1 City employees will be subject to discipline, up to and including termination, if they report for work under the influence of alcohol or controlled substances; or if they use , possess, buy, manufacture, distribute, dispense, or sell alcohol or controlled substances during working hours (including lunch or break periods) or on City property or while on City business. City employees who are subject to callback must adhere to department policies addressing drug and alcohol use during times when they may be called in to work.
- 303.2 Employees who are required by a licensed health care provider to take prescription medicine or who take over-the-counter medication (either

temporarily or on an ongoing basis) that may cause behaviors that affect their work performance or which would cause a direct threat to the health or safety of themselves or a co-worker, shall notify their immediate supervisor of the medication prescribed. An employee may be placed on sick leave, vacation leave, or leave without pay if the employee has no sick or vacation leave available, if use of the prescribed or over-the-counter drug adversely affects the employee's job performance or causes a threat to the employee's safety or that of their co-workers or the general public. Any documentation of this information will be maintained confidentially in the employee's medical file.

- 303.3 All property belonging to the City is subject to inspection at any time without notice as there is not an expectation of privacy. Property includes, but is not limited to, vehicles, desks, containers, files, and storage lockers.
- 303.4 City employees who have reason to believe another employee is illegally using alcohol, drugs, or narcotics shall report the facts and circumstances immediately to a supervisor and/or the Human Resources Director.
- 303.5 Employees must abide by the terms of this drug and alcohol policy. Employees must notify the City of any criminal drug or driving under the influence charge, conviction, or diversion by the next regular work day. Upon receiving notice that an employee has been so convicted or placed on diversion, the City will take one of the following actions;
 - a. Take appropriate personnel action up to and including termination.
 - b. Require such employee to participate satisfactorily in a drug/alcohol abuse assistance to rehabilitation program approved by the City.
- 303.6 Employees must cooperate in any investigation relating to conduct prohibited by this Policy. Failure to cooperate may result in discipline up to and including termination.
- 303.7 An employee who refuses to submit to a drug or alcohol test or as a result of testing is found to have engaged in the use of controlled substances or having an alcohol concentration in the blood or breath of 0.04% or greater shall be removed from service and shall be disciplined, up to and including termination. Tampered tests shall be considered a refusal to test. An employee who is found to have switched, tampered with, or adulterated a test shall be disciplined, up to and including termination.
- 303.8 An employee who, as a result of testing just before, during, or just after performing safety sensitive functions, is found to have alcohol concentration of 0.02% and greater but less than 0.04% shall be removed from performing such duties for at least twenty-four (24) hours and placed on unpaid Administrative Leave.
- 303.9 An employee must not consume alcohol four (4) hours prior to performing safety sensitive functions and up to eight (8) hours following an accident or until the employee undergoes a post-accident test, whichever occurs first.
- 303.10 All employees are subject to testing for the use of drugs and alcohol post accident or whenever there is reasonable suspicion of drug or alcohol use. Department of Transportation regulations require that at a minimum, safety sensitive employees must be tested for the use of drugs and alcohol in three (3) situations, post accident, whenever there is reasonable suspicion, and random:

- a) Post Accident: As soon as practical, after accidents where there is a traffic fatality or the employee receives a citation under state or local law for a moving violation arising from the accident, where injuries are sustained by either party, or when substantial damage to property or vehicles occurred. If an alcohol test is not administered within two (2) hours following the accident, the City shall prepare and maintain a log stating the reasons for the delay. If the test is not administered within eight (8) hours following the accident, the City shall cease attempts to administer an alcohol test and prepare and maintain the same log.
- b) Reasonable Suspicion: When a supervisor or department director observes behavior or appearance that is characteristic of alcohol or drug misuse.
- c) Random: On a random, unannounced basis just before, during or just after performance of safety sensitive functions. The safety sensitive employee shall be randomly selected from a pool of safety sensitive employees subject to testing. Testing dates and times shall be unannounced and be with unpredictable frequency but shall be reasonably spread throughout the year. The number of random alcohol tests conducted shall equal at least 25% of all the safety sensitive employees within the City or if a consortium is developed, then 25% of the consortium sample. The number of random drug tests conducted shall equal at least 50% of all the safety sensitive employees within the City or if a consortium is developed, then 50% of the consortium sample.

(Note: Refer to Section 2-303 Drug Test. for regulations regarding pre-employment applicant testing.)

3-304 VOLUNTARY ADMISSION BY AN EMPLOYEE.

- 304.1 Employees are encouraged to voluntarily identify themselves as drug users or alcohol abusers and to obtain counseling and rehabilitation through the Employee Assistance Program available through the City or other program sanctioned by the City.
- 304.2 Employees who voluntarily identify themselves as having a drug or alcohol problem and obtain appropriate counseling and rehabilitation may be reinstated to their current position upon full release by the selected program according to federal and state laws. Public health and safety responsibilities of the position will be taken into consideration when making this determination.
- 304.3 Employees shall be subject to unannounced follow-up tests for up to sixty (60) months after the employee has returned to work. A minimum of six (6) tests will be conducted in the first twelve (12) months after a return to duty. If any subsequent test results are positive on any employee, the employee may be subject to termination.

3-305 CURRENT EMPLOYEES.

- 305.1 The City may require a current City employee to undergo a drug or alcohol test if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during working hours. "Reasonable suspicion" means a belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:
 - a) A pattern of abnormal, irrational, or erratic behavior or demeanor;

- b) A work-related accident;
- c) Direct observation of drug or alcohol use;
- d) Presence of the physical symptoms of drug or alcohol uses (e.g. glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor balance, coordination and/or reflexes).

- 305.2 Whether a drug or alcohol test is warranted shall be determined by the employee's immediate supervisor, with approval by the appropriate department director and shall be coordinated through the Human Resources Director or the City Administrator.
- 305.3 An employee who refuses to consent to a drug or alcohol test and sign a consent form when reasonable suspicion of drug or alcohol use has been identified, may be terminated.
- 305.4 If a positive test result is reported in accordance with the drug and alcohol testing procedures set out in this Policy, the employee shall be referred to a Substance Abuse Professional (SAP) for an assessment and is required to obtain appropriate counseling and rehabilitation through the Employee Assistance Program available through the City or a program sanctioned by the City. Refusal to obtain an evaluation by a SAP and to obtain counseling and rehabilitation as recommended may be grounds for termination.
- 305.5 Employees released from an approved rehabilitation program may be reinstated to their current position. The City may hold the employee's position open for a period of time determined by the supervisor and the department director based on the needs of the City and other applicable policies. Reinstatement will be based on the employee's work history, length of employment, current job performance and existence of past disciplinary actions. Public health and safety responsibilities of the position will also be taken into consideration when making this determination. Employees who test positive a second time will be terminated.
- 305.6 Prior to reinstating an employee to their safety sensitive duties, the employee must have; (1) been evaluated by a SAP; (2) complied with any recommended treatment; (3) taken a return to duty drug test and/or alcohol test with a result of less than .02; and (4) be subject to unannounced follow-up drug and/or alcohol tests.
- 305.7 Any time off from work that an employee must take to comply with the referral and testing requirements will be charged to vacation leave unless, based on the assessment by the SAP, the condition meets the requirements for sick leave. If the employee's appropriate leave balances are not sufficient, the time will be leave without pay. The time off will be counted as leave under the Family and Medical Leave Act (FMLA) if the employee qualifies for leave under the Act.
- 305.8 An employee who has tested positively for drugs or alcohol must pass a drug or alcohol test prior to returning to work.
- 305.9 Employees shall be subject to unannounced follow-up tests for up to sixty (60) months after the employee has returned to work. A minimum of six (6) tests will be conducted in the first twelve (12) months after return to duty. If any subsequent test results are positive on any employee, the employee will be terminated.

- 305.10 Disciplinary action based on a violation of the City's Drug and Alcohol Policy is not precluded by the employee's participation in an Employee Assistance Program or other sanctioned program. The employee may be subject to disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job performance and existence of past disciplinary actions.

3-306 COST COVERAGE FOR TREATMENT OF DRUG AND ALCOHOL TREATMENT.

The City shall pay the laboratory cost of obtaining all drug and alcohol tests required or provided for in the Policy. In addition, the City shall compensate all employees for the time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident, or follow-up testing required by this Policy. In all situations where treatment is required, employees are eligible to receive normal benefits provided to employees of their type of position (full-time, regular part-time, part-time, or temporary). Employees are obligated to cover all portions of the treatment cost which are normally charged to the employee.

3-307 APPEAL PROCEDURE.

If an employee's positive test results have been confirmed and disciplinary action is taken the employee is entitled to follow the appeals process regarding the disciplinary action taken.

3-308 CONFIDENTIALITY OF TEST RESULTS.

- 308.1 Except as otherwise provided by law, all information from an employee's drug or alcohol test shall be treated as confidential. All information related to the drug or alcohol test of an employee will be maintained in the employee's confidential medical file. Anyone disclosing drug test results, as prohibited by this Policy, will be subject to disciplinary action.
- 308.2 An employee, while employed by the City, is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or drugs, including any test records. Records shall also be made available when requested by the Secretary of Transportation, DOT agency, National Transportation Safety Board (NTSB), or any State or local officials with regulatory authority over safety sensitive employees. Test results may only be released to the City, the SAP or to the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol and/or controlled substance test administered under this Policy; from the employer's determination that the employee engaged in conduct prohibited by this Policy; or a request which is otherwise required by law to be released. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee.
- 308.3 Records shall be made available to a subsequent or prospective employer upon receipt of a written request from a previous or existing employee but such disclosure is expressly limited to the terms of the employee's request and the disclosure permitted by law. The City shall maintain the information regarding alcohol and drug tests on safety sensitive employees for a minimum period of two (2) years.

3-309 TRAINING FOR SUPERVISORS.

- 309.1 The City will provide initial and ongoing training to all supervisors of the City regarding enforcement of this Policy. At least one hour of training will be provided to supervisors on drug and/or alcohol misuse symptoms and indicators

used in making determinations for reasonable suspicion testing. Every safety sensitive employee shall participate in a drug and alcohol training and education program for a minimum of one hour. The program shall include the distribution of information material and a classroom type instruction.

309.2 Attendance logs from the training sessions shall be maintained for at least two (2) years.

309.3 All questions regarding the Drug and Alcohol Policy and testing procedures may be directed to the Human Resources Director.

SECTION FIFTEEN: Section 5-403 of Chapter 5 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

5-403 KPERS OPTIONAL GROUP LIFE INSURANCE.

403.1 Eligibility:

Employee becomes eligible for KPERS Optional Group Life Insurance on their KPERS or KP&F membership date.

403.2 Benefits:

Coverage is available to eligible employees in five thousand dollar (\$5,000.00) increments from a minimum base of \$5,000.00 to the maximum coverage of \$250,000.00. Employees are guaranteed \$50,000.00 coverage if coverage is applied for within 30 (thirty) days of their KPERS/KPF membership date without proof of good health. Insurance coverage over \$50,000.00 requires proof of good health.

403.3 Cost:

The employee pays 100% of the premiums and administrative costs.

403.4 Plan document:

KPERS Optional Group Life information is available from Human Resources.

NOTE: In accordance with I.R.S. regulations, the cost of group-term life insurance that is more than the cost of \$50,000 of coverage must be included in the employee's wages subject to social security and Medicare taxes.

SECTION SIXTEEN: Section 5-501 of Chapter 5 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

5-501 EDUCATIONAL REIMBURSEMENT POLICY.

501.1 Eligibility:

Must be a full-time employee and have completed one year of service to be eligible.

501.2 Benefits:

Employees are eligible for reimbursement of one-hundred percent (100%) of tuition and books up to a maximum of one-hundred dollars (\$100) per undergraduate credit hour and one-hundred-fifty dollars (\$150) per graduate credit

hour and related book fees for job-related and pre-approved college credit hours with an annual maximum reimbursement of one-thousand-five-hundred dollars (\$1,500) per year and a life-time maximum reimbursement of six-thousand dollars (\$6,000), provided employees satisfactorily complete the course(s) with a G.P.A. of 2.0 or higher. Tuition reimbursement is dependent on budgetary resources and this provision does not constitute a guarantee that funds will be available. Employees who voluntarily leave the employment of the City of Gardner within one year of the completion of the last course for which Educational Expense Reimbursement was paid shall be liable for all costs of fees and books that have already been reimbursed by the City for that year.

501.3 Cost:

Benefit funded entirely by the City.

501.4 Procedures for educational reimbursement are set out in Chapter 10, Appendix C.

SECTION SEVENTEEN: Section 5-502.2 of Chapter 5 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

502.2 Benefits:

Employees are eligible to receive free individual or family season swimming pool passes for up to a total of five (5) family members limited to themselves, their spouse, and/or their children and step-children eighteen (18) years of age and younger. Additional children and/or stepchildren may be added to the pass for fifteen-dollars (\$15.00) each.

SECTION EIGHTEEN: Section 5-506 of Chapter 5 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby added to read as follows:

5-506 DIRECT DEPOSIT

Employees are eligible to participate in the City's direct deposit program. The direct deposit program enables the deposit of all or a portion of an employee's net pay to be made in the employee's choice of financial institution(s). Employees may split the amount of their direct deposit into a maximum of five accounts. The deposit is accomplished through an electronic funds transfer and is available in the employee's designated account(s) on the morning of the normal payday. Direct deposit forms are available from Human Resources.

SECTION NINETEEN: Article 2 of Chapter 6 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

ARTICLE 2. ON THE JOB INJURY

6-201 REPORTING.

It is the responsibility of the employee to immediately report any on the job accident or injury to the supervisor. State Worker's Compensation regulations will be used to determine a work-related injury or illness. The injured employee, supervisor, and witnesses, if any, must complete the appropriate accident report forms.

The supervisor, in cooperation with Human Resources, will authorize appropriate medical care if any will be required. The City is responsible for payment of all authorized medical treatment related to an on-the-job injury or illness.

The City may require any employee to undergo drug and alcohol testing as soon as practical after a work-related injury or accident.

6-202 INVESTIGATION.

The injured employee's supervisor is responsible for ensuring that a full investigation of every accident is accomplished. The supervisor of his/her designee will initiate the investigation which requires obtaining information from the involved employee and any witnesses through interviews, observing and taking pictures of the accident site, and gathering any other pertinent or contributory information, and determining what, if any, corrective action should be taken to prevent a similar situation from occurring in the future.

6-203 GENERAL PROVISIONS.

- 203.1 When a full-time or regular part-time employee must miss work due to an on-the-job injury or illness the employee may elect to utilize accrued sick leave and/or other leave to augment Worker's Compensation benefits up to 100% of salary.
- 203.2 Employees shall be entitled to those benefits as provided by Worker's Compensation. All benefits normally available to the employee will continue as normal for as long as the employee continues to be an employee of the City. Employees may also qualify for leave under the Family and Medical Leave Act provided they meet the eligibility requirements.
- 203.3 Employees must follow the course of treatment set out by the assigned medical practitioner and must provide related documentation to the City. During time that an employee is absent from work due to an on-the-job injury or illness, the employee should contact their supervisor at least weekly and always after each appointment with a health care provider to keep the supervisor updated on the status of their condition and projected return to work date.
- 203.4 Employees who have not been fully released, but who have been released with restrictions, may be required to come back to work to perform tasks that they are physically able to perform. Restricted duty assignments may not always be available and all decisions determining whether or not restricted duty assignments are available will be made with the approval of the department director and City Administrator.
- 203.5 Restricted duty is designed to be a bridge for employees who are temporarily disabled and is in no way to be construed as a regular assignment, lateral transfer, promotion, or demotion. Restricted duty will be provided only where the limitations are temporary. Normally the employee will be assigned restricted duties within their regular department. There may be times, however, when the employee may be temporarily reassigned to another department based on the needs of the department.
- 203.6 An evaluation and prognosis will be requested from the treating health care provider for any employee who is unable to return to their regular duties within ninety (90) days after an on-the-job injury or illness. A decision will be made regarding how long the individual's position can be held open, based on the prognosis provided and the needs of the department.
- 203.7 If it is determined that an employee who reaches maximum medical improvement is unable to perform the essential functions of his or her position, the City will make every reasonable effort to accommodate the employee in the position or in another vacant position, if available, however, there are no guarantees that an accommodation can be made or that a position will be available.

- 203.8 An employee shall return to work upon being released by the treating health care provider with a statement indicating that the employee is able to perform all of the essential functions of the position.
- 203.9 If an employee must receive subsequent treatments due to his or her on the job injury after returning to work, time off for such treatment shall be documented on the employee's time sheet as worker's compensation leave and will not be charged to the employee's sick or vacation leave. Leave may qualify as leave under the Family Medical Leave Act (FMLA) if the employee meets the eligibility requirements.

SECTION TWENTY: Section 301.5 of Chapter 7 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

- 301.5 Employees are eligible for the Personal Day if they are employed on January 1 of the current year. Personal Days must be used within the calendar year. Upon termination or resignation, an employee shall be compensated for any unused Personal Days.

SECTION TWENTY-ONE: Section 501.1 of Chapter 7 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

- 501.1 Vacation leave shall be earned and accrued from the most recent date of employment under the conditions hereinafter stated. Vacation will be considered to be earned and accrued at the end of the last day of the payroll period. Approved vacation may be used as soon as it is accrued. (Vacation may not be taken during the same period during which it is being earned.)

SECTION TWENTY-TWO: Section 601.2 of Chapter 7 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

- 601.2 All full-time employees accrue sick leave at a rate of 3.692 hours per pay period. All regular part-time employees accrue sick leave at a proportional rate. Part-time and temporary employees do not accrue sick leave. Sick leave will be considered to be earned and accrued at the end of the last day of the payroll period. Approved sick leave may be used as soon as it is accrued. (Sick leave may not be taken during the same period during which it is being earned.)

SECTION TWENTY-THREE: Section 601.5 of Chapter 7 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

- 601.5 An employee who takes sick leave may be required to submit a statement from a health care provider prior to returning to work stating that the employee's condition prevented them from working.

SECTION TWENTY-FOUR: Section 8-101 of Chapter 8 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

8-101 SCOPE AND PURPOSE.

The purpose of this policy is to provide the process for how the City Administrator, department directors, and supervisors shall implement disciplinary action. Further, it outlines the process by which employees may request review by the City Administrator regarding disciplinary action imposed upon them.

All city employees are expected and required to meet acceptable performance standards and otherwise conduct themselves in an appropriate manner during the course of their employment.

SECTION TWENTY-FIVE: Article 2 of Chapter 8 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

ARTICLE 2. REASONS FOR DISCIPLINARY ACTION

8-201 REASONS FOR DISCIPLINARY ACTION.

The following are examples of unacceptable conduct that will result in disciplinary action. It should be understood that this is not a complete list and other conduct may result in disciplinary action up to and including immediate termination:

- 201.1 Any violation of the Personnel or Administrative Policies and Procedures of the City of Gardner, or any department or division policies, procedures, rules or regulations.
- 201.2 Commission of a criminal act and the subsequent finding of guilt by a court of law when the criminal act directly affects the employee's ability to perform the duties of his or her position; or directly relates to the duties and responsibilities of the position.
- 201.3 Being in the possession of or drinking alcoholic or cereal malt beverages, being intoxicated or being in the possession of or using or being under the influence of illegal drugs while on duty or while on public property during the work day, including meal breaks.
- 201.4 Refusing to work when called back for an emergency by the department director or supervisor or failing to appear when scheduled for emergency work.
- 201.5 Exhibiting offensive conduct or using offensive or inappropriate language toward the public, City officials, or other employees.
- 201.6 Being insubordinate or violating any lawful and reasonable official regulation made by the employee's supervisor.
- 201.7 Inducing, or attempting to induce, any City official or employee to commit an illegal act or to act in violation of any lawful and reasonable departmental or official regulation, or to participate therein.
- 201.8 Intentionally or corruptly deceiving or obstructing any person in respect to that person's right to take part in any examination for admission or promotion in the City service.
- 201.9 Furnishing special or confidential information for the purpose of either improving or injuring the prospects or chances of a person tested or to be appointed.
- 201.10 Violating safety policies, failing to follow prescribed safety procedures including failing to notify the supervisor or department director of unsafe working conditions, or engaging in unsafe acts.
- 201.11 Damaging City property either intentionally or as a result of negligence.
- 201.12 Taking leave without authority, failure to notify supervisor of intended absence, walking off the job without permission, tardiness, excessive absenteeism, or any absence in excess of two consecutive days not specifically covered by authorization or excused by the employee's supervisor.
- 201.13 Violation of Section 3-101 of Chapter 3 - Ethics and Conduct which includes, but is not limited to, solicitation or receipt from any person of, or participation in, any

fee, gift or other valuable thing that is given in the hope or expectation of receiving a favor or better treatment than that given to other persons.

- 201.14 Knowingly falsifying information on a job application or other required personnel forms or other City document.
- 201.15 Carrying or having in possession any unauthorized firearm or weapon on the job or on City property.
- 201.16 Engaging in physical fighting with a supervisor, co-worker, or citizen.
- 201.17 Making threats of intent to cause physical or mental harm including any expression which constitutes a threat.
- 201.18 Teasing, harassing, annoying, provoking, disturbing, molesting, or bothering other employees, or making unnecessary complaints against employees or acting or failing to act to the extent the employees are unable to complete their assigned tasks, or the effective operation of City services is impaired.
- 201.19 Engaging in activities which disrupt or are intended to hinder or interfere with the regular work activities of a section, division, or department including failing to report for duty or not to work at usual capabilities in performance of normal duties, including concerted action with others.
- 201.20 Abusing official position with the City government or using City equipment without authorization for personal purposes or activities.
- 201.21 Using information obtained as an employee of the City to advance personal, financial, or other private interests.
- 201.22 Committing theft or any criminal act.
- 201.23 Writing a personal check for payment to the City for which there are insufficient funds in the employee's bank account.
- 201.24 Committing a serious traffic violation.
- 201.25 Stealing City funds or property or removing City funds or property without authority.
- 201.26 Committing or omitting any act which makes the taking of a disciplinary action necessary or desirable for the efficient conduct of the business of the City or for the best interest of the City government.
- 201.27 Having a certification or license revoked or suspended, including a driver's license, when such is required as a condition of city employment, or failing to obtain or renew any necessary or required license or certification.
- 201.28 Committing any act which reflects negatively upon the City.
- 201.29 Committing any act of unlawful harassment or discrimination of any employee or member of the public because of their sex, ethnicity, race, religious affiliation, or disability.
- 201.30 Failing to cooperate with other employees, citizens or other members of the public in a professional, courteous, and polite manner.

- 201.31 Allowing a personal relationship with a co-worker, contractor, or customer to interfere with the satisfactory performance of job duties.
- 201.32 Exhibiting unsatisfactory performance of job duties and responsibilities.
- 201.33 Abusing leave time or claiming leave time under false pretenses.
- 201.34 Falsifying any City record.
- 201.35 Sleeping on the job.
- 201.36 Having sex or performing sexual acts while on duty or on City property.
- 201.37 Committing any type of fraud, including that which benefits the City.
- 201.38 Witnessing another employee violating the law on duty and/or on City property and not reporting the violation to a supervisor, department director, or City Administrator.
- 201.39 Violating any lawful and reasonable order, rule or regulation.

SECTION TWENTY-SIX: Article 3 of Chapter 8 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

ARTICLE 3. TYPES OF DISCIPLINARY ACTION

8-301 TYPES OF DISCIPLINARY ACTION.

Disciplinary procedures may include any of the following disciplinary actions which are not required to be implemented in a progressive manner. Department directors and supervisors will determine the appropriate disciplinary action for any conduct.

- 301.1 **VERBAL WARNING** - A verbal warning is an oral reprimand given by the employee's supervisor. All verbal warnings shall be documented in writing.
- 301.2 **WRITTEN REPRIMAND** - A written reprimand is a written notification of the employee's unsatisfactory performance or other violation of the Personnel Policies and Procedures, Administrative Policies and Procedures, and/or other City or departmental policies.
- 301.3 **SPECIAL PROBATION** - A special probation is a period of a specified length of time during which the employee is required to fulfill a set of conditions to improve work performance or on-the-job behavior. Failure to meet the special probationary requirement will result in additional disciplinary action up to and including termination. An employee may be placed on special probation in conjunction with another form of disciplinary action as defined in this section. An employee is not eligible for any performance salary increase during a special probation. The notice of special probation will state the length of time for the probation and when the employee will be eligible for the next performance increase.
- 301.4 **SUSPENSION** - A suspension is the removal of an employee from the workplace for a specified period of time with or without pay. The length of suspension will reflect the severity of the employee's misconduct.
- 301.5 **DEMOTION** - A demotion is the placement of an employee into a lower job classification as a result of disciplinary action.

301.6 TERMINATION - A termination is the permanent removal of an employee from the City's employment.

SECTION TWENTY-SEVEN: Section 401.3 of Chapter 8 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

401.3 The department directors shall have responsibility for all disciplinary action but may delegate this authority to supervisors. Supervisors' authority with regard to implementing disciplinary action should be guided by department policy. Department Directors and supervisors are strongly encouraged to consult with Human Resources prior to the implementation of disciplinary action.

SECTION TWENTY-SEVEN: Section 101.2 of Chapter 9 of the Personnel Policies and Procedures, 2004 Edition of the City of Gardner, Kansas, is hereby amended to read as follows:

101.2 Use of vacation leave or compensatory time during the minimum notice period shall not be permitted unless prior approval of the department director is obtained. An employee may use sick leave during the minimum notice period only with a statement from a health care provider stating that the employee's condition prevented them from working.

SECTION TWENTY-EIGHT: This Resolution shall take effect and be in full force from and after its adoption by the Governing Body of the City of Gardner.

ADOPTED by the Governing Body of the City of Gardner, Kansas, this 5th day of December, 2005.

Carol Lehman, Mayor

Attest:

Gwen Scott, City Clerk

(SEAL)